

Message Text

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AMEMBASSY AMMAN JORDAN

AMEMBASSY CAIRO EGYPT

AMCONSUL DHAHRAN SAUDI ARABIA

AMEMBASSY DOHA QATAR

AMEMBASSY JIDDA SAUDI ARABIA

AMEMBASSY KUWAIT KUWAIT

AMEMBASSY MUSCAT OMAN

AMEMBASSY TEHRAN IRAN

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TAGS : EIND, EINV, BA

SUBJECT : NEW COMMERCIAL COMPANIES LAW

REFERENCE : MANAMA 1191 (NOTAL)

1. THE GOVERNMENT OF BAHRAIN HAS GAZETTED ITS NEW COMMERCIAL COMPANIES LAW WHICH HAS TAKEN EFFECT AS OF NOVEMBER 20,1975. THE LAW, A LONG 67-PAGE ARABIC DOCUMENT WITH THIRTEEN SECTIONS AND 294 ARTICLES, IS THE FIRST COMPREHENSIVE EFFORT ON THE PART OF THE GOVERNMENT TO DEFINE AND REGULATE LOCAL COMPANIES.

2. THE LAW DESCRIBES AND DEFINES SIX TYPES OF COMPANIES WHICH WILL BE RECOGNIZED LOCALLY. OF THESE, FOREIGN INDIVIDUALS

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AND COMPANIES ARE ABLE TO PARTICIPATE IN THREE (LIMITED

PARTNERSHIP AND LIMITED LIABILITY COMPANIES AND JOINT VENTURES). UNDER CERTAIN CIRCUMSTANCES, WHICH WILL BE JUDGED BY THE MINISTRY OF COMMERCE, FOREIGNERS MAY ALSO PARTICIPATE IN SHARE-HOLDING COMPANIES AND LIMITED PARTNERSHIP BY SHARES.

3. MAJOR CHANGES FROM PAST PRACTICE WHICH ARE DETAILED IN THE NEW LAW INCLUDE A REQUIREMENT, UNDER MOST BUT NOT ALL, CIRCUMSTANCES THAT BAHRAINIS OWN 51 PER CENT OF EACH COMPANY. THE EXCEPTIONS TO THIS GENERAL RULE ARE FOR THOSE COMPANIES ENGAGED IN "NATIONAL DEVELOPMENT" PROJECTS WHICH BRING CERTAIN ESSENTIAL TECHNOLOGY OR EXPERTISE TO BAHRAIN AND ALSO FOR THOSE COMPANIES WHICH USE BAHRAIN AS A REGIONAL HEADQUARTERS BUT WHOSE FIELD OF OPERATION IS OUTSIDE BAHRAIN. EVEN IN THESE CASES, HOWEVER, THE MINISTRY OF COMMERCE IS ENABLED BY THE LAW TO REQUIRE THAT THE COMPANY DEPOSIT A PROPORTION OF ITS CAPITAL IN A LOCAL BANK.

4. EMBASSY IS PRODUCING AN ENGLISH LANGUAGE, OBVIOUSLY UNOFFICIAL, SUMMARY OF REGULATIONS PERTAINING TO FOREIGN COMPANIES IN BAHRAIN, WHICH WE WILL SUPPLY LOCALLY TO INTERESTED AMERICAN FIRMS.

5. COMMENT: ACCORDING TO KNOWLEDGEABLE GOB OFFICIALS, IT CONTINUES TO BE THE POLICY OF THE GOVERNMENT TO PROMOTE BOTH BAHRAINI AND FOREIGN PRIVATE SECTOR INVESTMENT/ACTIVITIES IN BAHRAIN. THE NEW REGULATIONS, WHILE DETAILED AND WITH MUCH MORE REFERENCE TO BUREAUCRATIC REGULATION OF PRIVATE BUSINESS THAN HAS BEEN THE CASE IN THE PAST, ARE DESIGNED TO "REGULARIZE" AND SIMPLIFY RATHER THAN COMPLICATE AND INHIBIT PRIVATE INVESTMENTS. END COMMENT

6. THE NEW LAW SHOULD BE READ IN CONJUNCTION WITH THE AMIRI DECREE ON COMMERCIAL AGENCIES (REFTEL) AS THE BASIC LEGAL STRUCTURE WITHIN WHICH FOREIGN FIRMS WILL HAVE TO OPERATE IN BAHRAIN. AS WE NOTED IN REFTTEL, THE FOREIGN FIRMS IMMEDIATELY FACING PROBLEMS VIS-A-VIS BOTH LAWS ARE THE TWO OLD-LINE, SOLELY BRITISH FIRMS WHICH HAVE, OVER THE YEARS, REFUSED TO "BAHRAINIZE" (GRAY MACKENZIE AND AFRICAN EASTERN). THE GOB HAS ANNOUNCED A ONE YEAR GRACE PERIOD WITHIN WHICH TIME SUCH FIRMS MUST BECOME 51 PER CENT BAHRAINI-OWNED OR FACE CLOSURE.

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